

TENNESSEE AUCTIONEER COMMISSION

The Tennessee Auctioneer Commission held its meeting October 2, 2006, Room 640, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. Those present for the meeting were Bobby Colson, Chairperson; Kenneth Dreaden, Vice Chairperson; Howard Phillips, Board Member; Marvin Alexander, Board Member; John McLemore, Board Member; Bethany Heuer, Staff Attorney; Lynn McGill, Administrative Director; Sheila Piper, Administrative Assistant and members of the Tennessee Auctioneer Association.

Motion was made by Kenneth Dreaden and seconded by Howard Phillips to adopt agenda. Motion carried. No opposition.

Minutes from the meeting of August 7, 2006, were presented to the Commission Members for approval. Motion was made by Marvin Alexander and seconded by Bobby Colson to amend the minutes to state Howard Phillips announced that he plans to sell used vehicles from used car dealerships and the public via the internet. Mr. Phillips stated that he has the following licenses: Automobile Used Auto Dealer, Real Estate, Auctioneer, Knox County Business and Tennessee Sales Tax Exemption. Mr. Phillips stated that he had spoken with Bethany Heuer, and that she was in agreement that he would not be in violation of Tennessee Auctioneer Commission Laws or rules by selling automobiles on the internet as long as the sales did not constitute a simulcast of a live auction. Motion carried. John McLemore abstained.

Ryan Bane, Staff Attorney for Tennessee Motor Vehicle Commission appeared before the Commission Members to address selling automobiles on the internet.

Lynn McGill requested that any question regarding the selling automobiles on the internet be submitted in writing to her a week before the next Commission Meeting on November 6th and she would forward the questions to our Staff Attorney, Bethany Heuer and Motor Vehicle's Staff Attorney, Ryan Bane allowing them time to respond in writing.

Jack L. Besecker, Sr. appeared before the Commission Members for waiver of apprenticeship. After review of applicant's experience, motion was made by Howard Phillips and seconded by Marvin Alexander for applicant to furnish more documentation of experience and present at the next Commission Meeting. Motion carried. No opposition.

James Michael Loftin from Rome, GA appeared at the Commission Meeting for approval of reciprocal auctioneer application. After review of application, motion was made by Marvin Alexander and seconded by John McLemore to approve application. Motion carried. No opposition.

Sheila Piper presented the application of John J. McGrellis, III from Hockessin, DE to the Commission Members. Motion was made by John McLemore and seconded by Howard Phillips to deny the application by stating not enough information furnished to substantiate how active he is in the auction business. Motion carried. No opposition.

Administrative Director stated for the record that the Commission had received a letter from Jon Buford Evans giving Terry Evans the authority to speak for him.

Terry Evans appeared before the Commission Members requesting guidance for his son, Jon Buford Evans. After a lengthy discussion, motion was made by Howard Phillips and seconded by Marvin Alexander that the applicant Jon Buford Evans to furnish the Commission Members a log document at the next Commission Meeting. Motion carried. No opposition.

Matthew Tuner appeared before the Commission Members concerning his apprentice application. Motion was made by Marvin Alexander and seconded by Howard Phillips to approve apprentice application. Motion carried. No opposition.

Lynn McGill presented a letter from 84 Lumber Company requesting that an employee from the company be allowed to auction the property in Kingsport, TN. Motion was made by John McLemore and seconded by Howard Phillips that a licensed Tennessee auctioneer must conduct the auction. Motion carried. No opposition.

Rhessa Orr appeared before the Commission Members regarding the Commission's seminars and whether or not it is acceptable for non-licensed individuals to attend the TAC seminars. Motion was made by Marvin Alexander and seconded by Howard Phillips that only Tennessee licensees be allowed to attend Auctioneer Commission seminars. Motion carried. No opposition.

Rhessa Orr appeared before the Commission Members regarding a bad check issued by one of their students. Mrs. Orr was advised to submit a complaint when this occurs.

Rhessa Orr appeared before the Commission Members regarding newsletter and seminars. The Commission Members voted to conduct the next seminar on a Monday.

The following paid Consent Orders and Citations were presented to the Commission Members by Bethany Heuer to close.

200602128. Furrow Auction paid Consent Order in the amount of \$500.00. Ad failed to state "bankruptcy".

200602570. ABC Auction paid Consent Order in the amount \$100.00. Firm number left off ad.

200501913. Lakeland Properties paid Consent Order in the amount \$500.00. Unlicensed auction activity.

200503885. John McGrellis paid citation in the amount of \$1,000.00 (civil penalty). Unlicensed auction activity.

The following complaints were presented to the Commission Members by Bethany Heuer, Staff Attorney.

200603019. Kruse International.

Complainant stated that the firm license number was left off of the advertisement. Respondent stated that a summer intern who was placing the ads omitted the license number by mistake. Respondent stated that they regret the omission and have taken steps to instruct their advertising department to prevent this type of mistake in the future.

Motion was made by Howard Phillips and seconded by Marvin Alexander to take Legal's recommendation to dismiss. Motion carried. John McLemore voted no.

200603315.

Complainant alleged a dispute regarding a bill of sale and title. Respondent stated that Complainant received the documents.

The Respondent is authorized for a formal hearing on another case.

Motion was made by John McLemore and seconded by Howard Phillips to take Legal's recommendation to schedule the matter for a formal hearing. Motion carried. No opposition.

200602938.

Complainant alleged any violations including: auctioneer took items by loading them into his van that did not sell at the auction, auctioneer allowed people to take items without going through the proper bidding process, auctioneer took items that the seller told him not to sell, that auctioneer sold items without reserve and that a reserve price had been placed on the items. Complainant stated that after auctioneer took some of the things that she asked him not to sell, she went to his office (where she saw a lot of her property) and asked for things back and he sold them back to her at about triple what her asking price had been. Respondent denied the allegations.

Motion was made by Howard Phillips and seconded by John McLemore to take Legal's recommendation to schedule the matter for a formal hearing. Motion carried. No opposition.

200603050. Nashville Powersport Auction.

Complainant alleged Respondent sold her vehicle at too low a price.

Respondent stated Complainant signed an absolute/no reserve contract and enclosed a signed copy.

Motion was made by John McLemore and seconded by Kenneth Dreaden to take Legal's recommendation to dismiss. Motion carried. No opposition.

2006032381. Crye-Leike of Nashville.

Complaint alleged that there was no firm number on the ad. The Tennessean wrote a letter to the Commission stating that this was their fault and not the fault of the Respondent.

Motion was made by John McLemore and seconded by Howard Phillips to take Legal's recommendation to dismiss. Motion carried. No opposition.

2006032401.

Complaint stated that the auctioneer placed an ad in the newspaper without a license number. Respondent was not licensed with the Commission at that time and also (at the time they placed the ad) had not retained a licensed auctioneer to conduct the auction. Motion made by John McLemore and seconded by Marvin Alexander to issue civil penalty for unlicensed conduct in the amount of \$1,500.00. Motion carried. No opposition.

2006032341.

Complaint alleged an advertising violation. An investigation report revealed: ad violation, unlicensed activity and misrepresentation under 62-19-112(b) (1).

Motion was made by John McLemore and seconded by Howard Phillips to take Legal's recommendation to schedule the matter for a formal hearing. Motion carried. No opposition.

20061691. Motion was made by John McLemore and seconded by Howard Phillips to take Legal's recommendation to schedule the matter for a formal hearing. Motion carried. No opposition.

200504080. Outlet Store-Steve Rogers. Motion was made by John McLemore and seconded by Marvin Alexander to note violation of Escrow Account on file and inform seller of the Recovery Fund. Close with letter to complainant and flag file. Motion carried. No opposition.

Administrative Director presented budget information, complaint report and discussion of 2007 board calendar.

Bethany Heuer, Staff Attorney presented a draft of the Rulemaking Hearing to the Commission Members. Staff Attorney informed the Commission Members that Notice of Rulemaking Hearing will be December 5, 2006.

Motion was made by John McLemore and seconded by Marvin Alexander that meeting be adjourned. Motion carried. No opposition.

APPROVED:

Bobby Colson
Chairperson

Kenneth Dreaden
Vice-Chairperson

John McLemore
Board Member

Howard Phillips
Board Member

Marvin Alexander
Board Member